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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,423	10/07/2003	Victoria L. Blinkhorn	B546 0003	3478
720	7590	04/04/2005	EXAMINER	
OYEN, WIGGS, GREEN & MUTALA LLP 480 - THE STATION 601 WEST CORDOVA STREET VANCOUVER, BC V6B 1G1 CANADA			MOHANDESI, JILA M	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/679,423

Applicant(s)

BLINKHORN ET AL.

Examiner

Jila M Mohandesi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) 15-22 and 24 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-14 and 23 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 05-18-2004.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I as shown in Figures 1 and 2.

Species II as shown in Figures 3 and 4.

Species III as shown in Figures 5 and 6.

Species IV as shown in Figures 7 and 8.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 appears to be generic generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with applicant's attorney Mr. Green on March 30, 2005 a provisional election was made with traverse to prosecute the invention of species I, claims 1-14 and 23. Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-22 and 24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### ***Claim Objections***

4. Claims 10-11 are objected to because of the following informalities: step v) and vi) should be step vi) and vii) . Appropriate correction is required.

#### ***Specification***

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" , "**comprises**" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Drawings***

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plastic envelopes, buffered acid-free envelopes, plastic bags, file folders, newspaper preservation bags and interleaving papers must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (3,358,819). Johnson '819 discloses a kit for preserving an article, comprising: a box having a bottom and a lid whereby said box has open and closed configurations, said box being constructed of material suitable for preserving archival material; and a flexible, opaque cover sized and configured to removably enclose said box. See Figures 1-3 embodiments.

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Char et al. (5,833,057). Char '057 discloses a kit for preserving an article, comprising: a box having a bottom and a lid whereby said box has open and closed configurations, said box being constructed of material suitable for preserving archival material; and a flexible, opaque cover sized and configured to removably enclose said box. See Figure 1 embodiment.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2-4 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson '819. Johnson '819 discloses (see column 1, line 3 and column 2, lines 24) that the box and cover can be made from other suitable materials. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the box and opaque cover of Johnson '819 from any suitable material since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

12. Claims 1-8, 12-14 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schumacher (4,917,238) in view of Char '057. Schumacher '238 discloses a kit comprising a box having a bottom and a lid whereby said box has open and closed configurations, said box being constructed of material suitable for preserving archival material. The kit further comprising flexible tissues (absorbent paper towels 50, 51 & 52) and gloves (57 & 58). Schumacher '238 does not appear to teach a flexible opaque cover sized and configured to removably enclose said box. Char '057 discloses that it is desirable to provide an opaque flexible cover over boxes for surrounding and

protecting the box from damage during shipping and handling. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a flexible opaque cover for the box of Schumacher '238 as taught by Char '057 for surrounding and protecting the box from damage during shipping and handling.

With respect to claims 2-4, 6-7 and 23, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the box, tissues and opaque cover of Johnson '819 from any suitable material since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With respect to claim 12, see written instructions (100) in Figure 1 embodiment.

With respect to claim 14, whether the fastening means is flexible ties or any other art recognized equivalent is an obvious matter of choice, such as to require less manual dexterity to operate.

13. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references as applied to claims 1, 5 and 8 above, and further in view of Heckal (6,080,350). Schumacher '238 as modified above discloses all the limitations of the claims except for the kit including a desiccant a moisture-absorbing lining material. Heckal '350 discloses that it is desirable to provide a desiccant and moisture-absorbing lining material to containers for absorbing excess moisture trapped therein. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a desiccant and/or a moisture-absorbing lining material to the kit of



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Schumacher '238 as taught by Heckal '350 for absorbing excess moisture trapped therein.

14. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the above references as applied to claim 1 above, and further in view of Diehl (4,571,232).

Schumacher '238 as modified above discloses all the limitations of the claims except for the kit including a liner. Diehl '232 discloses that it is desirable to provide a liner sized to cover the bottom of the box and to be folded over said item held therein.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a liner to the kit of Schumacher '238 as taught by Diehl '232 for wrapping the item therein.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are kits analogous to applicant's instant invention.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**JILA M. MOHANDESI  
PRIMARY EXAMINER**

  
Jila M Mohandesi  
Primary Examiner  
Art Unit 3728

JMM  
March 30, 2005